IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION.

CRIMINAL BAIL APPLICATION NO.270 OF 2006

IN

CRIMINAL APPEAL NO.247 OF 2006

Mukhtar Ismail Shaikh @ Makdiya : Appellant

versus

The State of Maharashtra : Respondent.

Mr.V.V.Shetye, for the appellant.

Mr.I.S.Thakur, APP, for the State.

CORAM : D.G.DESHPANDE

V.K.TAHILRAMANI JJ.

DATED : MARCH 23, 2006.

P.C.

1. Heard advocate for the applicant, who is original accused No. 2 and, the learned APP for the State. This accused is convicted under Section 307 of the Indian Penal Code and sentenced for life imprisonment along with

others.

2. According to the advocate for accused/appellant, this accused/appellant is not a person having alias name Makdiya. Even though, there is a recovery of weapon, the weapon is not sent to Chemical Analyser. And the role attributes to him by the eye witness-victim is that injury was caused on the shoulder. But according to Mr.Shetye, the advocate appearing for the appellant/accused, there is no injury on shoulder. Therefore, for all these three reasons, he is seeking bail.

3. The learned APP points out that this accused/appellant is named in FIR as Makdiya and he has a chequered history in the police record. He was known as Mukhtar Ismail Shaikh @ Makdiya and, therefore, it cannot be said that his name does not figure in the FIR. The learned APP has also stated, on the basis of medical evidence, that the witness might have stated that the injury is caused on his shoulder, but the medical report shows that the injury is thereon the right arm and, that injury appears to be serious. Not sending weapon to the Chemical Analyser may not

be of that importance. This appellant - original accused No.2 has been convicted in other 18 cases, though all of them are relating to theft.

4. In the circumstances, when a specific role is attributed to the present appellant - original accused No.2 and he is named in the FIR, this bail application is rejected. However, the appeal is expedited.

[D.G.DESHPANDE,J]

[V.K.TAHILRAMANI,J]